

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

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**History of the Fair Employment and Housing Act (FEHA)**

YEAR	ACTION
1959	<p>April 16, 1959—Governor Pat Brown signs the Fair Employment Practice Act (FEPA) into law; the legislation was first introduced 14 years earlier in 1945. The law prohibited discrimination in employment based on race, religious creed, color, national origin or ancestry.</p> <p>September 18, 1959—FEPA goes into effect as California Labor Code sections 1410-1432. The law established a five-member Fair Employment Practices Commission (FEPC) (to be appointed by the Governor) and a governmental administrative agency, the Division of Fair Employment Practices, housed in the Department of Industrial Relations (DIR).</p>
1960	Within its first 12 months of operation, the Division received 411 complaints alleging discrimination.
1963	The Rumford Act was passed prohibiting discrimination based on race, color, creed, national origin, or ancestry in housing accommodation of three or more units, in public and redevelopment housing, and in owner-occupied single-family homes with public financing. The activities of real estate brokers, salespersons, and mortgage lenders were also covered.
1964	The voters enacted Proposition 14 which nullified the majority of the Rumford Act.
1965	California Supreme Court held Proposition 14 unconstitutional in violation of the equal protection clause of the federal Constitution. The Rumford Act was returned to its original full force and affect.
1970	Prohibition against employment discrimination based on sex.
1973	Prohibition against employment discrimination based on age (40-64 years).
1974	Prohibition against employment discrimination based on physical handicap.
1975	Prohibition against employment discrimination based on medical condition.
1977	Prohibition against mandatory retirement at age 65 and other amendments, including authority to undertake class action complaints and the realignment of commissioner and staff responsibilities.
1980	<p>Division of Fair Employment Practices was removed from the DIR and established independently as the Department of Fair Employment and Housing (DFEH).</p> <p>FEPA and the Rumford Act were combined within the FEHA.</p>
1981	Prohibition for an employer to require an employee to be sterilized as a condition of employment.

1982	<p>Fair Employment and Housing Commission (FEHC) was separated from DFEH.</p> <p>DFEH's authority to investigate all matters covered by the FEHA was clarified.</p> <p>FEHC's power to promulgate regulations on all provisions of the FEHA was clarified.</p> <p>Physical handicap accommodation was amended to require any reasonable accommodation which would not produce undue hardship to an employer.</p> <p>Remedies in housing discrimination were increased to include the full amount of actual damages and punitive damages not to exceed \$1,000.</p>
1983	<p>Harassment was added as an unlawful employment practice, thereby codifying the FEHC's harassment regulations.</p> <p>Unlawful for any covered entity to retaliate against any person who has made a report pursuant to Penal Code section 11161.8.</p>
1984	Mandatory retirement for public-sector employees as well as private-sector employees abolished.
1985	<p>Anti-harassment prohibition expanded to include all employers with one or more employees.</p> <p>Unlawful employment practice for an employer to fail to take all reasonable steps necessary to prevent discrimination or harassment from occurring.</p> <p>Clarified burdens of proof in physical handicap cases involving firefighters.</p> <p>FEHC allowed to report certain respondents to the local district attorney's office.</p>
1986	<p>Changed the number of commissioners required for a quorum from three to four.</p> <p>Reasonable accommodation requirement added to religious discrimination and religious creed added to the definition of religious discrimination.</p>
1987	<p>Increased DFEH's ability to enter judgments against a respondent in court to enforce a FEHC decision.</p> <p>DFEH allowed to seek injunctive relief or a temporary restraining order to enforce a conciliation agreement.</p>
1988	<p>Anti-retaliation section amended to prohibit "any person" as well as employers, labor organizations, and employment agencies from retaliation.</p> <p>Homeowners required to maintain records when a complaint has been filed.</p>
1991	Definition of sex discrimination amended to include pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.
1992	Family Rights Act added to the FEHA.

1993

Employment

Authority reinstated to the FEHC to award victims of employment discrimination compensatory damages and to order administrative fines, a combination of both not to exceed \$50,000 per aggrieved person per respondent.

Employers allowed to opt out of the administrative process into court when the DFEH requests compensatory damages or administrative fines.

Disability provisions of the FEHA were brought into conformance with the federal Americans with Disabilities Act (ADA) and mental disability protections were added.

Definition of physical disability was redefined to include immunological disorders, codifying the long-standing position that the FEHA prohibits discrimination based on AIDS or HIV positive diagnosis.

Employers required to display a poster on the illegality of sexual harassment and to distribute information to employees about sexual harassment.

Employers of five or more employees required to reasonably accommodate pregnant employees requesting a temporary transfer to a less hazardous or strenuous job.

Housing

Prohibition against discrimination based on disability and familial status.

Compensatory damages and civil penalties of \$10,000 to \$50,000 were added.

Provisions for parties to a complaint in which DFEH has concluded that the law has been violated to remove the issue from the administrative process to a court of law.

1994

Housing provisions of the FEHA were deemed substantially equivalent to the federal Fair Housing Amendments Act of 1988.

1995

Additional pregnancy discrimination provisions were added to the FEHA.

1996

Expansion of the types of senior citizen housing developments subject to the FEHA.

Unruh Civil Rights Act expanded to prohibit business establishments from practicing gender discrimination in pricing services.

1997

Protection for disabled individuals to access public places and highways and their use of guide dogs and service animals added to FEHA.

1999

Employment

Genetic characteristics added to the employment provisions of the FEHA.

FEHA was amended to bring the prohibition discrimination based on sexual orientation under the enforcement jurisdiction of the DFEH. Previously, the Labor Commissioner had been empowered to enforce this prohibition. The statute of limitations went from 30 days to one year to file complaints, and the monetary damages available become commensurate with other protected bases.

The \$50,000 cap on monetary damages was raised to \$150,000.

Independent contractors are protected against harassment.

Employers are required to reasonably accommodate pregnant employees if they so request, with the advice of a health care provider.

Housing

Source of income was added to the housing provisions as a protected basis.

Restrictive Covenants including discriminatory language are to be removed from deeds and processes for doing so are legislated.

2000

All employees of any entity covered by the FEHA may be held personally liable for harassing a co-worker.

2001

Employment

Restrictions are included in the FEHA on an employer's ability to require medical or psychological testing or disability-related inquiries or questions throughout the application and employment process

Prudence Poppink Act amends the FEHA to clarify that the intent is that California law provide broader protections for persons with disabilities than the federal Americans with Disabilities Act; whether a disability "limits" a major life activity is to be determined without reference to mitigating measures unless the mitigating measure itself limits and individual's ability to participate in major life activities; the disability only need limit the major life activity, not "substantially" limit; new definitions of medical condition and physical and mental disability.

Housing

Legislation governing senior housing was amended

2002

Employment

FEHA is amended to make it an unlawful practice for employers to adopt or enforce a policy that limits or prohibits the use of any language in any workplace unless (1) the restriction is justified by a business necessity, and (2) the employer has notified employees of the circumstances and the time when the language restriction is required to be observed and of the consequences for violating the language restriction.

2003

Employment

Age is included as an enumerated basis under FEHA and prohibits discrimination based on age when making decisions as to whether to grant or deny certain employee benefits and privileges.

The statute of limitations period for filing a cause of action for employment discrimination in state court is tolled when DFEH defers its investigation to the EEOC, or the EEOC agrees to review a determination made by DFEH.

Housing

Restrictive Covenant removal process is revised.

2004

Employment

Sex as a protected basis is extended to include a person's gender, as set forth in Penal Code section 422.76.

An employer's liability for sexual harassment extends to non-employees when the employer fails to take immediate and appropriate corrective action when the employer knows or should have known of the harassment.

Housing

Amendments to the State housing laws to require information concerning universal accessibility features and to require that 10 percent of multi-story dwelling units for which a construction permit is issued on or after July 1, 2004, comply with the accessibility requirements of the FEHA; they also must contain an accessible route to the primary entry-level entrance and at least one accessible bathroom on the primary entry level and in the public and common areas.